

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

YUKIO KUSADA,
Plaintiff

VS.

BERKSHIRE EAST SKI RESORT,
UNION TERMINAL PIERS, INC.,
and
NORTHFIELD MOUNT HERMON
SCHOOL,
Defendants

05 - 30043 - MAP
Civil Action
No.:

FILING FEE PAID:

RECEIPT # 305851

AMOUNT: 250.00

BY DPTY CLK MGL

DATE 2/9/05

COMPLAINT

The Parties

1. The plaintiff, Yukio Kusada, at all relevant and material times was a student at Northfield Mount Hermon School, 206 Main Street, Northfield, Massachusetts, where he resided during the school year. Mr. Kusada currently resides at 1-8-3 ebisu-higashi, naniwa-ku, Osaka, Japan.
2. The defendant, Berkshire East Ski Resort, is a Massachusetts business entity with a usual place of business at South River Road, Charlemont, Massachusetts.
3. The defendant, Union Terminal Piers, Inc., is a Michigan corporation with a usual place of business at Huron Street, Mackinac Island, Michigan.

4. The defendant, Northfield Mount Hermon School, is a Massachusetts educational institution with a usual place of business at 206 Main Street, Northfield, Massachusetts.

Jurisdiction

5. Jurisdiction is based upon 28 U.S.C. § 1332.

The Facts

6. On or about February 20, 2004, defendant, Berkshire East Ski Resort, owned, operated, and/or maintained the premises of Berkshire East Ski Resort, located in Charlemont, Franklin County, Commonwealth of Massachusetts (hereinafter referred to as "the premises"), and owed a duty to all lawful visitors to maintain and operate the premises in a reasonably safe manner.
7. On or about February 20, 2004, defendant, Union Terminal Piers, Inc., owned, operated, and/or maintained the premises, and owed a duty to all lawful visitors to maintain and operate the premises in a safe and reasonable manner.
8. On or about February 20, 2004, defendant, Northfield Mount Hermon School, coordinated and supervised a ski trip to the premises as part of a ski class for its students, including the plaintiff, and owed a duty to the plaintiff to do so in a safe and reasonable manner.
9. On or about February 20, 2004, the plaintiff, Yukio Kusada, was a student at Northfield Mount Hermon School.

10. On or about February 20, 2004, the plaintiff, Yukio Kusada, was a lawful visitor on the premises as a participant in the ski class coordinated by the defendant, Northfield Mount Hermon School.
11. On or about February 20, 2004, plaintiff, Yukio Kusada, was skiing on the premises and sustained severe personal injuries.
12. The injuries sustained by the plaintiff were due to the carelessness and negligence of defendant, Berkshire East Ski Resort, its agents, servants, employees, and/or others for whom it was legally responsible, in the operation and/or maintenance of the premises.
13. The injuries sustained by the plaintiff were due to the carelessness and negligence of defendant, Union Terminal Piers, Inc., its agents, servants, employees, and/or others for whom it was legally responsible, in the operation and/or maintenance of the premises.
14. The injuries sustained by the plaintiff were due to the carelessness and negligence of defendant, Northfield Mount Hermon School, its agents, servants, employees, and/or others for whom it was legally responsible, in the care and/or supervision of its students.
15. As a result of the injuries sustained as aforesaid, the plaintiff, Yukio Kusada, was caused to suffer great pain of body and anguish of mind. His earning capacity has been and will continue to be impaired, and he has expended and will continue to expend large sums of money for medical care and attendance.

Causes of Action

(Each Cause of Action Incorporates by Reference
All Previous Allegations)

First Cause of Action

16. This is an action by the plaintiff, Yukio Kusada, against the defendant, Berkshire East Ski Resort, for damages caused by the negligence of the defendant, its agents, servants, employees or others for whom it was legally responsible resulting in personal injuries and consequential damages.

Second Cause of Action

17. This is an action by the plaintiff, Yukio Kusada, against the defendant, Union Terminal Piers, Inc., for damages caused by the negligence of the defendant, its agents, servants, employees or others for whom it was legally responsible resulting in personal injuries and consequential damages.

Third Cause of Action

18. This is an action by the plaintiff, Yukio Kusada, against the defendant, Northfield Mount Hermon School, for damages caused by the negligence of the defendant, its agents, servants, employees or others for whom it was legally responsible resulting in personal injuries and consequential damages.

Demands for Relief

19. The plaintiff, Yukio Kusada, demands judgment, in the amount of his damages, together with interest and costs, against the defendants, Berkshire East Ski Resort, Union Terminal Piers, Inc., and Northfield Mount Hermon

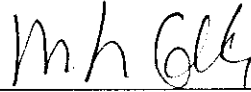
School, jointly and severally as to the First, Second, and Third Causes of Action.

Jury Demand

20. The plaintiff claims a trial by jury as to all counts.

By His Attorneys

BREAKSTONE, WHITE-LIEF & GLUCK, P.C.

A handwritten signature in black ink, appearing to read "R. E. Gluck", is written over a horizontal line.

RONALD E. GLUCK

BBO #196950

Two Center Plaza

Suite 530

Boston, MA 02108-1906

(617) 723-7676

Dated: February 8, 2005

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Kusada, Yukio
1-8-3 ebisu-higashi, naniwa-ku

(b) County of Residence of First Listed Plaintiff Osaka, Japan
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) 617-723-7676

Ronald E. Gluck, Esq., Breakstone, White-Lief
& Gluck, P.C., Two Center Plaza, Boston, MA 02108

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

DEFENDANTS Berkshire East Ski Resort,
Union Terminal Piers, Inc., and
Northfield Mount Hermon School

County of Residence of First Listed Defendant Franklin, MA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE

Attorneys (If Known)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|---------------------------------------|----------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input checked="" type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) SOCIAL SECURITY <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge: 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Sec. 1332

Brief description of cause: Negligence by defendants resulting in plaintiff's severe injuries from ski accident.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐ DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2/8/05

SIGNATURE OF ATTORNEY OF RECORD

Ronald E. Gluck

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Kusada v. Berkshire East Ski Resort

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

05 - 30043 - MAP

☐

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

☐

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.

*Also complete AO 120 or AO 121
for patent, trademark or copyright cases☒

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

☐

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

☐

V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☐Central Division ☐Western Division ☒

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Ronald E. GluckADDRESS Two Center Plaza, Suite 530, Boston, MA 02108TELEPHONE NO. 617-723-7676